

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF NORTH CAROLINA

**U.S.A. vs. Earl Clinton Payton**

**Docket No. 4:14-CR-33-1D**

**Petition for Action on Supervised Release**

COMES NOW Melissa K. Gonigam, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Earl Clinton Payton, who, upon an earlier plea of guilty to 18 U.S.C. § 111 (a)(1) Assaulting, Resisting, or Impeding Certain Officers or Employees, was sentenced by the Honorable James C. Dever III, Chief U.S. District Judge, on December 14, 2016, to the custody of the Bureau of Prisons for a term of 4 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 12 months.

Earl Clinton Payton was released from custody on February 27, 2017, at which time the term of supervised release commenced.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:**

On March 16, 2017, the defendant was arrested by the Grifton Police Department in Pitt County, North Carolina, for misdemeanor Larceny (17CR051991). Per the magistrate's order, Payton stole two cans of smoked sausage and caramel candy worth a value of \$2.40 from Dollar General in Grifton, North Carolina. He was released on a \$500.00 secured bond. When confronted by the undersigned probation officer on March 20, 2017, the defendant admitted to stealing the aforementioned items and expressed remorse for his conduct. The charge is pending disposition and his next court date is May 5, 2017. On March 21, 2017, the defendant was also issued a citation for speeding (17IF702108) in Pitt County, North Carolina.

On March 27, 2017, Payton informed the undersigned officer that he used cocaine on March 25, 2017, and signed an admission form.

As a sanction for these violations, the probation officer respectfully recommends the conditions of supervised release be modified to include 90 days of home detention with electronic monitoring, 90 days of Remote Alcohol Monitoring, and the DROPS Program at the second use level. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

**PRAYING THAT THE COURT WILL ORDER** that supervised release be modified as follows:

1. The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 90 consecutive days. The defendant shall be restricted to residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall submit to the following Location Monitoring: Radio Frequency monitoring and abide by all program requirements, instructions and procedures provided by the supervising officer.
2. The defendant shall abide by all terms and conditions of the Remote Alcohol Monitoring Program, as directed by the probation officer, for a period not to exceed 90 consecutive days.

3. While under supervision in the Eastern District of NC, the defendant shall participate in the DROPS Program and, in response to detected illegal drug use, shall be confined in the custody of the Bureau of Prisons for a period not to exceed 30 days of intermittent confinement, as arranged by the probation office, in the following increments: First Use - Two Days; Second Use - Five Days; Third Use - Ten Days; The defendant shall begin the DROPS Program in the second use level.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing  
is true and correct.

/s/ Dwayne K. Benfield  
Dwayne K. Benfield  
Supervising U.S. Probation Officer

/s/ Melissa K. Gonigam  
Melissa K. Gonigam  
U.S. Probation Officer  
201 South Evans Street, Rm 214  
Greenville, NC 27858-1137  
Phone: (252) 830-2345  
Executed On: March 28, 2017

#### ORDER OF THE COURT

Considered and ordered this 10 day of April, 2017, and ordered filed and  
made a part of the records in the above case.

James C. Dever III  
James C. Dever III  
Chief U.S. District Judge